

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

PHILIP E. MODELLE and OSCAR S. GRICE,

Plaintiffs,

vs

9:08-CV-1042

DAVID FAURO, Sheriff; MIKE SMITH, Major;
and KEVIN LAURIN, Lt., Each of Clinton County
Jail,

Defendants.

APPEARANCES:

PHILIP E. MODELLE
08-A-2310
Plaintiff, pro se
UpState Correctional Facility
PO Box 2001
309 Bare Hill Road
Malone, New York 12953

OSCAR S. GRICE
08-A-6396
Plaintiff, pro se
Attica Correctional Facility
PO Box 149
Attica, New York 14011

MURPHY, BURNS, BARBER & MURPHY, LLP
Attorneys for Defendants
226 Great Oaks Boulevard
Albany, NY 12203

DAVID N. HURD
United States District Judge

OF COUNSEL:

THOMAS K. MURPHY, ESQ.

DECISION and ORDER

Plaintiffs, Philip E. Modelle and Oscar S. Grice, brought this civil rights action in September 2008, pursuant to 42 U.S.C. § 1983. By Report-Recommendation dated January 27, 2010, George H. Lowe, United States Magistrate Judge, recommended that defendants' motion for summary judgment (Docket No. 61) be granted; and plaintiff Modelle's motion for summary judgment (Docket No. 38) be denied. Only plaintiff Modelle filed objections to the Report-Recommendation.

Based upon a de novo review of the entire file, including the portions of the Report-Recommendation to which plaintiff Modelle objected, and the recommendations of magistrate Judge Lowe, the Report-Recommendation is accepted and adopted in all respects. See 28 U.S.C. 636(b)(1).

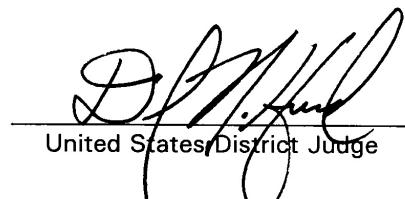
Accordingly, it is

ORDERED that

1. Defendants' motion for summary judgment (Docket No. 61) is GRANTED;
2. Plaintiff Modelle's motion for summary judgment (Docket No. 38) is DENIED;
3. The Clerk is directed to file judgment accordingly and close the file.

IT IS SO ORDERED.

Dated: February 18, 2010
Utica, New York.



United States District Judge